

REMARKS

Claims 1 through 24 have been amended. Claims 1 through 24 remain in the application. A marked up copy of the amended claims are attached hereto as Appendix A.

The drawings were objected to as failing to comply with 37 C.F.R. 1.84(p)(5) because they do not include reference sign "47" mentioned in the description. Applicants respectfully traverse this objection.

Attached to this Amendment is a copy of the drawings with corrections in red to add reference numeral "47" for the Examiner's approval. Formal drawings will be submitted once the application has been allowed. It is respectfully submitted that the attached drawings are acceptable.

Claims 1 through 23 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. Applicants respectfully traverse this rejection.

Although Applicants disagree, to further prosecution of this application, claims 1 through 23 have been amended to clarify that the claimed combination includes the wood chipper. It is respectfully submitted that claims 1 through 23 are allowable over the rejection under 35 U.S.C. § 112, second paragraph.

Claims 1, 3, 17, 21, and 24 were rejected under 35 U.S.C. § 102(b) as being anticipated by Deem (U.S. Patent No. 4,961,539). Applicants respectfully traverse this rejection.

U.S. Patent No. 4,961,539 to Deem discloses a truck-mounted pallet chipper. A lifting means 160 is provided to enable solid waste objects such as wooden pallets to be lifted from operator level into an inlet port of a shredder means 40. The lifting means 160 consists of a flat box like structure, which is pivotally attached to the top of two frame members 162 that are securely attached to the chassis 18 of the truck 10 and to the shredder means 40. The box like

structure rotates about the pivot rod 166 and is lifted up to an upright position by hydraulic cylinder 523 and hydraulic cylinders 190. In the uppermost position, a push plate 194 inside the box-like structure forces the wooden materials out of the box-like structure and into the shredder means 40. Deem does not disclose at least one assist member connected to an assist mount and to operatively engage an infeed pan to assist an operator in moving a bulk weight of the infeed pan when the infeed pan is raised to a generally vertical position and lowered to a generally horizontal position by the operator.

In contradistinction, claim 1, as amended, clarifies the invention claimed as a wood chipper including a movable infeed pan and at least one assist mount connected to the wood chipper. The wood chipper also includes at least one assist member connected to the assist mount and to operatively engage the infeed pan to assist an operator in moving a bulk weight of the infeed pan when the infeed pan is raised to a generally vertical position and lowered to a generally horizontal position by the operator.

A rejection grounded on anticipation under 35 U.S.C. § 102 is proper only where the subject matter claimed is identically disclosed or described in a reference. In other words, anticipation requires the presence of a single prior art reference which discloses each and every element of the claimed invention arranged as in the claim. In re Arkley, 455 F.2d 586, 172 U.S.P.Q. 524 (C.C.P.A. 1972); Kalman v. Kimberly-Clark Corp., 713 F.2d 760, 218 U.S.P.Q. 781 (Fed. Cir. 1983); Lindemann Maschinenfabrik GMBH v. American Hoist & Derrick Co., 730 F.2d 1452, 221 U.S.P.Q. 481 (Fed. Cir. 1984).

Deem '539 does not disclose or anticipate the claimed invention of claim 1. Specifically, Deem '539 merely discloses a truck-mounted pallet chipper having a lifting means to enable solid waste objects such as wooden pallets to be lifted from operator level into an inlet port of a shredder means in which the lifting means consists of a box like structure that is lifted

up to an upright position by hydraulic cylinders. Deem '539 lacks at least one assist member connected to an assist mount and to operatively engage an infeed pan to assist an operator in moving a bulk weight of the infeed pan when the infeed pan is raised to a generally vertical position and lowered to a generally horizontal position by the operator. In Deem '539, the lifting means 160 enables wooden pallets to be lifted from operator level in to an inlet port of a shredder means 40 by hydraulic cylinder 523 and hydraulic cylinders 190 and an operator does not move a bulk weight of the infeed pan when the infeed pan is raised to a generally vertical position and lowered to a generally horizontal position by the operator. Further, in Deem '539, the box-like structure is raised to a generally horizontal position and lowered to a generally vertical position and not visa versa. Deem '539 fails to disclose the combination of a wood chipper including a movable infeed pan, at least one assist mount connected to the wood chipper, and at least one assist member connected to the assist mount and to operatively engage the infeed pan to assist an operator in moving a bulk weight of the infeed pan when the infeed pan is raised to a generally vertical position and lowered to a generally horizontal position by the operator as claimed by Applicants. Therefore, it is respectfully submitted that claim 1 and the claims dependent therefrom are allowable over the rejection under 35 U.S.C. § 102(b).

As to claim 17, claim 17, as amended, clarifies the invention claimed as a wood chipper including an infeed hopper and an infeed pan pivotally connected to the infeed hopper. The wood chipper also includes at least one assist mount connected to the infeed hopper. The wood chipper further includes at least one assist member connected to the at least one assist mount and connected to the infeed pan and connected to the infeed hopper to assist an operator in moving a bulk weight of the infeed pan when the infeed pan is raised to a generally vertical position and lowered to a generally horizontal position by the operator.

Deem '539 does not disclose or anticipate the claimed invention of claim 17. Specifically, Deem '539 merely discloses a truck-mounted pallet chipper having a lifting means to enable solid waste objects such as wooden pallets to be lifted from operator level into an inlet port of a shredder means in which the lifting means consists of a box like structure that is lifted up to an upright position by hydraulic cylinders. Deem '539 lacks at least one assist mount connected to an infeed hopper and at least one assist member connected to the assist mount and to an infeed pan and the infeed hopper to assist an operator in moving a bulk weight of the infeed pan when the infeed pan is raised to a generally vertical position and lowered to a generally horizontal position by the operator. In Deem '539, the lifting means 160 enables wooden pallets to be lifted from operator level in to an inlet port of a shredder means 40 by hydraulic cylinder 523 and hydraulic cylinders 190 and an operator does not move a bulk weight of the infeed pan when the infeed pan is raised to a generally vertical position and lowered to a generally horizontal position by the operator. Further, in Deem '539, the box-like structure is raised to a generally horizontal position and lowered to a generally vertical position and not visa versa. Deem '539 fails to disclose the combination of a wood chipper including an infeed hopper, an infeed pan pivotally connected to the infeed hopper, at least one assist mount connected to the infeed hopper, and at least one assist member connected to the assist mount and to the infeed pan and to the infeed hopper to assist an operator in moving a bulk weight of the infeed pan when the infeed pan is raised to a generally vertical position and lowered to a generally horizontal position by the operator as claimed by Applicants. Therefore, it is respectfully submitted that claim 17 and the claims dependent therefrom are allowable over the rejection under 35 U.S.C. § 102(b).

As to claim 24, claim 24, as amended, clarifies the invention claimed as a wood chipper including an infeed hopper and a cutting assembly spaced from the infeed hopper. The wood chipper also includes a feed wheel assembly disposed between the infeed hopper and the

cutting assembly to feed wood material from the infeed hopper to the cutting assembly. The wood chipper includes an infeed pan pivotally connected to the infeed hopper and at least one assist mount connected to the infeed hopper. The wood chipper further includes at least one assist member connected to the at least one assist mount and to operatively engage the infeed pan and to operatively engage the infeed hopper to assist an operator in moving a bulk weight of the infeed pan when the infeed pan is raised to a generally vertical position and lowered to a generally horizontal position by the operator.

Deem '539 does not disclose or anticipate the claimed invention of claim 24. Specifically, Deem '539 merely discloses a truck-mounted pallet chipper having a lifting means to enable solid waste objects such as wooden pallets to be lifted from operator level into an inlet port of a shredder means in which the lifting means consists of a box like structure that is lifted up to an upright position by hydraulic cylinders. Deem '539 lacks a feed wheel assembly disposed between an infeed hopper and a cutting assembly to feed wood material from the infeed hopper to the cutting assembly, an infeed pan pivotally connected to the infeed hopper, at least one assist member connected to an assist mount and to operatively engage the infeed pan and the infeed hopper to assist an operator in moving a bulk weight of the infeed pan when the infeed pan is raised to a generally vertical position and lowered to a generally horizontal position by the operator. In Deem '539, the lifting means 160 enables wooden pallets to be lifted from operator level into an inlet port of a shredder means 40 by hydraulic cylinder 523 and hydraulic cylinders 190 and an operator does not move a bulk weight of the infeed pan when the infeed pan is raised to a generally vertical position and lowered to a generally horizontal position by the operator. Further, in Deem '539, there is no feed wheel assembly because the wooden pallets are fed by gravity into the shredder means 40. Deem '539 fails to disclose the combination of a wood chipper including an infeed hopper, a cutting assembly, a feed wheel assembly disposed between

the infeed hopper and a cutting assembly to feed wood material from the infeed hopper to the cutting assembly, an infeed pan pivotally connected to the infeed hopper, at least one assist mount connected to the infeed hopper, and at least one assist member connected to the assist mount and to operatively engage the infeed pan and the infeed hopper to assist an operator in moving a bulk weight of the infeed pan when the infeed pan is raised to a generally vertical position and lowered to a generally horizontal position by the operator as claimed by Applicants. Therefore, it is respectfully submitted that claim 24 is allowable over the rejection under 35 U.S.C. § 102(b).

Claims 1 through 24 were rejected under 35 U.S.C. § 103 as being unpatentable over allegedly admitted prior art. Applicants respectfully traverse this rejection.

The Background of the Invention section of the present application discloses an example of a wood chipper such as in U.S. Patent No. 5,988,539 to Morey. In this patent, the wood chipper includes an infeed hopper, feed wheel assembly, and a cutting assembly having a rotatable disc with at least one knife or blade for chipping the wood entering the wood chipper and reducing it to wood chips. Typically, the wood chipper includes an infeed pan pivotally connected to the infeed hopper, which is raised and lowered by an operator to allow wood material to be placed on the infeed pan before entering the infeed hopper. However, this patent does not disclose at least one assist member connected to an assist mount and to operatively engage an infeed pan to assist an operator in moving a bulk weight of the infeed pan when the infeed pan is raised to a generally vertical position and lowered to a generally horizontal position by the operator.

In contradistinction, claim 1, as amended, clarifies the invention claimed as a wood chipper including a movable infeed pan and at least one assist mount connected to the wood chipper. The wood chipper also includes at least one assist member connected to the assist

mount and to operatively engage the infeed pan to assist an operator in moving a bulk weight of the infeed pan when the infeed pan is raised to a generally vertical position and lowered to a generally horizontal position by the operator.

The United States Court of Appeals for the Federal Circuit (CAFC) has stated in determining the propriety of a rejection under 35 U.S.C. § 103, it is well settled that the obviousness of an invention cannot be established by combining the teachings of the prior art absent some teaching, suggestion or incentive supporting the combination. See In re Fine, 837 F.2d 1071, 5 U.S.P.Q.2d 1596 (Fed. Cir. 1988); Ashland Oil, Inc. v. Delta Resins & Refractories, Inc., 776 F.2d 281, 227 U.S.P.Q. 657 (Fed. Cir. 1985); ACS Hospital Systems, Inc. v. Montefiore Hospital, 732 F.2d 1572, 221 U.S.P.Q. 929 (Fed. Cir. 1984). The law followed by our court of review and the Board of Patent Appeals and Interferences is that “[a] prima facie case of obviousness is established when the teachings from the prior art itself would appear to have suggested the claimed subject matter to a person of ordinary skill in the art.” In re Rinehart, 531 F.2d 1048, 1051, 189 U.S.P.Q. 143, 147 (C.C.P.A. 1976). See also In re Lalu, 747 F.2d 703, 705, 223 U.S.P.Q. 1257, 1258 (Fed. Cir. 1984) (“In determining whether a case of prima facie obviousness exists, it is necessary to ascertain whether the prior art teachings would appear to be sufficient to one of ordinary skill in the art to suggest making the claimed substitution or other modification.”)

The reference cited, either alone or modified, does not teach or suggest the claimed invention of claim 1. Specifically, the Background of the Invention section of the present application merely discloses a wood chipper having an infeed pan pivotally connected to an infeed hopper, which is raised and lowered by an operator to allow wood material to be placed on the infeed pan before entering the infeed hopper. The Background of the Invention section lacks at least one assist member connected to an assist mount and to operatively engage an infeed

pan to assist an operator in moving a bulk weight of the infeed pan when the infeed pan is raised to a generally vertical position and lowered to a generally horizontal position by the operator. The reference, if modifiable, fails to teach or suggest the combination of a wood chipper including a movable infeed pan, at least one assist mount connected to the wood chipper, and at least one assist member connected to the assist mount and to operatively engage the infeed pan to assist an operator in moving a bulk weight of the infeed pan when the infeed pan is raised to a generally vertical position and lowered to a generally horizontal position by the operator as claimed by Applicants. The claimed invention is novel and unobvious because the assist assembly assists the operator in handling the bulk weight of the infeed pan when it is raised or lowered. Therefore, it is respectfully submitted that claim 1 and the claims dependent therefrom are allowable over the rejection under 35 U.S.C. § 103.

As to claim 5, claim 5, as amended, clarifies the invention claimed as a wood chipper including a movable infeed pan and at least one spring mount connected to the wood chipper. The wood chipper also includes at least one spring connected to the spring mount and to operatively engage the infeed pan to assist an operator in moving a bulk weight of the infeed pan when the infeed pan is raised to a generally vertical position and lowered to a generally horizontal position by the operator.

The reference cited, either alone or modified, does not teach or suggest the claimed invention of claim 5. Specifically, the Background of the Invention section of the present application merely discloses a wood chipper having an infeed pan pivotally connected to an infeed hopper, which is raised and lowered by an operator to allow wood material to be placed on the infeed pan before entering the infeed hopper. The Background of the Invention section lacks at least one spring connected to a spring mount to operatively engage an infeed pan to assist an operator in moving a bulk weight of the infeed pan when the infeed pan is raised to a generally

vertical position and lowered to a generally horizontal position by the operator. The reference, if modifiable, fails to teach or suggest the combination of a wood chipper including a movable infeed pan, at least one spring mount connected to the wood chipper, and at least one spring connected to the spring mount and to operatively engage the infeed pan to assist an operator in moving a bulk weight of the infeed pan when the infeed pan is raised to a generally vertical position and lowered to a generally horizontal position by the operator as claimed by Applicants. The claimed invention is novel and unobvious because the assist assembly has one or more springs positioned to counter the force of the bulk weight of the infeed pan to raise and lower the infeed pan smoothly. Therefore, it is respectfully submitted that claim 5 and the claims dependent therefrom are allowable over the rejection under 35 U.S.C. § 103.

As to claim 17, claim 17, as amended, clarifies the invention claimed as a wood chipper including an infeed hopper and an infeed pan pivotally connected to the infeed hopper. The wood chipper also includes at least one assist mount connected to the infeed hopper. The wood chipper further includes at least one assist member connected to the at least one assist mount and connected to the infeed pan and connected to the infeed hopper to assist an operator in moving a bulk weight of the infeed pan when the infeed pan is raised to a generally vertical position and lowered to a generally horizontal position by the operator.

None of the references cited, either alone or in combination with each other, teach or suggest the claimed invention of claim 17. Specifically, the Background of the Invention section of the present application merely discloses a wood chipper having an infeed pan pivotally connected to an infeed hopper, which is raised and lowered by an operator to allow wood material to be placed on the infeed pan before entering the infeed hopper. The Background of the Invention section lacks at least one assist mount connected to an infeed hopper and at least one assist member connected to the assist mount and to the infeed pan and the infeed hopper to assist

an operator in moving a bulk weight of the infeed pan when the infeed pan is raised to a generally vertical position and lowered to a generally horizontal position by the operator. The reference, if modifiable, fails to teach or suggest the combination of a wood chipper including an infeed hopper, an infeed pan pivotally connected to the infeed hopper, at least one assist mount connected to the infeed hopper, and at least one assist member connected to the assist mount and to the infeed pan and the infeed hopper to assist an operator in moving a bulk weight of the infeed pan when the infeed pan is raised to a generally vertical position and lowered to a generally horizontal position by the operator as claimed by Applicants. The claimed invention is novel and unobvious because the assist assembly assists the operator in handling the bulk weight of the infeed pan when it is raised or lowered. Therefore, it is respectfully submitted that claim 17 and the claims dependent therefrom are allowable over the rejection under 35 U.S.C. § 103.

As to claim 24, claim 24, as amended, clarifies the invention claimed as a wood chipper including an infeed hopper and a cutting assembly spaced from the infeed hopper. The wood chipper also includes a feed wheel assembly disposed between the infeed hopper and the cutting assembly to feed wood material from the infeed hopper to the cutting assembly. The wood chipper includes an infeed pan pivotally connected to the infeed hopper and at least one assist mount connected to the infeed hopper. The wood chipper further includes at least one assist member connected to the at least one assist mount and to operatively engage the infeed pan and to operatively engage the infeed hopper to assist an operator in moving a bulk weight of the infeed pan when the infeed pan is raised to a generally vertical position and lowered to a generally horizontal position by the operator.

The reference cited, either alone or modified, does not teach or suggest the claimed invention of claim 24. Specifically, the Background of the Invention section of the present application merely discloses a wood chipper having an infeed pan pivotally connected to

an infeed hopper, which is raised and lowered by an operator to allow wood material to be placed on the infeed pan before entering the infeed hopper. The Background of the Invention section lacks at least one assist member connected to an assist mount and to operatively engage the infeed pan and the infeed hopper to assist an operator in moving a bulk weight of the infeed pan when the infeed pan is raised to a generally vertical position and lowered to a generally horizontal position by the operator. The reference, if modifiable, fails to teach or suggest the combination of a wood chipper including an infeed hopper, a cutting assembly, a feed wheel assembly disposed between the infeed hopper and a cutting assembly to feed wood material from the infeed hopper to the cutting assembly, an infeed pan pivotally connected to the infeed hopper, at least one assist mount connected to the infeed hopper, and at least one assist member connected to the assist mount and to operatively engage the infeed pan and the infeed hopper to assist an operator in moving a bulk weight of the infeed pan when the infeed pan is raised to a generally vertical position and lowered to a generally horizontal position by the operator as claimed by Applicants. The claimed invention is novel and unobvious because the assist assembly assists the operator in handling the bulk weight of the infeed pan when it is raised or lowered. Therefore, it is respectfully submitted that claim 24 is allowable over the rejection under 35 U.S.C. § 103.

Obviousness under § 103 is a legal conclusion based on factual evidence (In re Fine, 837 F.2d 1071, 1073, 5 U.S.P.Q.2d 1596, 1598 (Fed. Cir. 1988), and the subjective opinion of the Examiner as to what is or is not obvious, without evidence in support thereof, does not suffice. Since the Examiner has not provided a sufficient factual basis, which is supportive of his/her position (see In re Warner, 379 F.2d 1011, 1017, 154 U.S.P.Q. 173, 178 (C.C.P.A. 1967), cert. denied, 389 U.S. 1057 (1968)), the rejection of claims 1 through 24 is improper. Therefore, it is respectfully submitted that claims 1 through 24 are allowable over the rejection under 35 U.S.C. § 103.

Based on the above, it is respectfully submitted that the claims are in a condition for allowance, which allowance is solicited.

Respectfully submitted,

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APPENDIX AVERSION OF THE CLAIMS WITH MARKINGS TO SHOW THE CHANGES

Please amend claims 1 through 24 as follows:

1. (AMENDED) [An assist assembly for an infeed pan of a] A wood chipper  
comprising:

a movable infeed pan;

at least one assist mount [adapted to be] connected to [the] said wood chipper; and

at least one assist member connected to said assist mount and [adapted] to  
operatively engage [the] said infeed pan to assist an operator in [handling] moving a bulk weight  
of [the] said infeed pan when [the] said infeed pan is raised to a generally vertical position and  
lowered to a generally horizontal position by the operator.

2. (AMENDED) [An assist assembly] A wood chipper as set forth in claim 1  
wherein said at least one assist member comprises a spring.

3. (AMENDED) [An assist assembly] A wood chipper as set forth in claim 1  
wherein said at least one assist mount comprises at least one side member [adapted to extend]  
extending from an infeed hopper assembly of [the] said wood chipper.

4. (AMENDED) [An assist assembly] A wood chipper as set forth in claim 1  
wherein said at least one assist mount further comprises a support member extending from said at

least one side member, said at least one assist member being connected to said at least one support member.

5. (AMENDED) A [spring assist assembly for an infeed pan of a] wood chipper comprising:

a movable infeed pan;

at least one spring mount [adapted to be] connected to [the] said wood chipper;

and

at least one spring connected to said spring mount and [adapted] to operatively engage [the] said infeed pan to assist an operator in [handling] moving a bulk weight of [the] said infeed pan when [the] said infeed pan is raised to a generally vertical position and lowered to a generally horizontal position by the operator.

6. (AMENDED) A [spring assist assembly] wood chipper as set forth in claim 5 wherein said at least one spring is a coil spring.

7. (AMENDED) A [spring assist assembly] wood chipper as set forth in claim 5 wherein said at least one spring has a first end extending outwardly and a second end extending outwardly to form a general "L" shape.

8. (AMENDED) A [spring assist assembly] wood chipper as set forth in claim 7 wherein said at least one spring has a plurality of coils disposed between said first end and said second end.

9. (AMENDED) A [spring assist assembly] wood chipper as set forth in claim 7 wherein said second end is longer than said first end, said second end being adapted to operatively engage [the] said infeed pan.

10. (AMENDED) A [spring assist assembly] wood chipper as set forth in claim 7 including a spring retainer [adapted to be] connected to [the] said infeed pan to space said second end from said infeed pan.

11. (AMENDED) A [spring assist assembly] wood chipper as set forth in claim 5 including a plurality of spring mounts spaced laterally and [adapted to be] secured to an infeed hopper assembly of [the] said wood chipper.

12. (AMENDED) A [spring assist assembly] wood chipper as set forth in claim 11 including a plurality of springs, one of said springs mounted to one of said spring mounts.

13. (AMENDED) A [spring assist assembly] wood chipper as set forth in claim 12 wherein one of said spring mounts and one of said springs is [adapted to be] located adjacent [the] said infeed pan.

14. (AMENDED) A [spring assist assembly] wood chipper as set forth in claim 5 wherein said at least one spring mount comprises at least one side member [adapted to extend] extending from an infeed hopper assembly of [the] said wood chipper.

15. (AMENDED) A [spring assist assembly] wood chipper as set forth in claim 14 wherein said at least one spring mount further comprises a support member extending from said at least one side member.

16. (AMENDED) A [spring assist assembly] wood chipper as set forth in claim 15 wherein said support member is rotatably secured to said at least one side member.

17. (AMENDED) [An infeed pan assembly for a] A wood chipper comprising:  
an infeed hopper;  
 an infeed pan pivotally connected to said infeed hopper;  
 at least one assist mount [adapted to be] connected to [an] said infeed hopper [assembly of the wood chipper]; and  
 at least one assist member connected to said at least one assist mount and connected to said infeed pan and [adapted for connection] connected to [the] said infeed hopper [assembly] to assist an operator in [handling] moving a bulk weight of said infeed pan when said infeed pan is raised to a generally vertical position and lowered to a generally horizontal position by the operator.

18. (AMENDED) [An infeed pan assembly] A wood chipper as set forth in claim 17 wherein said at least one assist member comprises a spring.

19. (AMENDED) [An infeed pan assembly] A wood chipper as set forth in claim 18 wherein said at least one spring has a first end extending outwardly and a second end extending outwardly to form a general "L" shape.

20. (AMENDED) [An infeed pan assembly] A wood chipper as set forth in claim 19 wherein said at least one spring has a plurality of coils disposed between said first end and said second end.

21. (AMENDED) [An infeed pan assembly] A wood chipper as set forth in claim 17 wherein said at least one assist mount comprises at least one side member [adapted to extend] extending from [the] said infeed hopper [assembly].

22. (AMENDED) [An infeed pan assembly] A wood chipper as set forth in claim 21 wherein said at least one assist mount further comprises a support member extending from said at least one side member.

23. (AMENDED) [An infeed pan assembly] A wood chipper as set forth in claim 22 wherein said support member is rotatably secured to said at least one side member.

24. (AMENDED) A wood chipper comprising:  
 an infeed hopper;  
a cutting assembly spaced from said infeed hopper;  
a feed wheel assembly disposed between said infeed hopper and said cutting  
assembly to feed wood material from said infeed hopper to said cutting assembly;  
 an infeed pan pivotally connected to said infeed hopper;  
 at least one assist mount connected to said infeed hopper; and

at least one assist member connected to said at least one assist mount and to operatively engage said infeed pan and to operatively engage said infeed hopper to assist an operator in [handling] moving a bulk weight of said infeed pan when said infeed pan is raised to a generally vertical position and lowered to a generally horizontal position by the operator.